

**R.C.M. 1301(e)**

reasonably delay the proceedings and if military exigencies do not preclude it.

**Discussion**

Neither the Constitution nor any statute establishes any right to counsel at summary courts-martial. Therefore, it is not error to deny an accused the opportunity to be represented by counsel at a summary court-martial. However, appearance of counsel is not prohibited. The detailing authority may, as a matter of discretion, detail, or otherwise make available, a military attorney to represent the accused at a summary court-martial.

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(f) *Power to obtain witnesses and evidence.* A summary court-martial may obtain evidence pursuant to R.C.M. 703.

**Discussion**

The summary court-martial must obtain witnesses for the prosecution and the defense pursuant to the standards in R.C.M. 703. The summary court-martial rules on any request by the accused for witnesses or evidence in accordance with the procedure in R.C.M. 703(c) and (f).

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(g) *Secretarial limitations.* The Secretary concerned may prescribe procedural or other rules for summary courts-martial not inconsistent with this Manual or the code.

**Rule 1302. Convening a summary court-martial**

(a) *Who may convene summary courts-martial.* Unless limited by competent authority summary courts-martial may be convened by:

(1) Any person who may convene a general or special court-martial;

(2) The commander of a detached company or other detachment of the Army;

(3) The commander of a detached squadron or other detachment of the Air Force;

(4) The commander or officer in charge of any other command when empowered by the Secretary concerned; or

(5) A superior competent authority to any of the above.

(b) *When convening authority is accuser.* If the convening authority or the summary court-martial is the accuser, it is discretionary with the convening au-

thority whether to forward the charges to a superior authority with a recommendation to convene the summary court-martial. If the convening authority or the summary court-martial is the accuser, the jurisdiction of the summary court-martial is not affected.

(c) *Procedure.* After the requirements of Chapters III and IV of this Part have been satisfied, summary courts-martial shall be convened in accordance with R.C.M. 504(d)(2). The convening order may be by notation signed by the convening authority on the charge sheet. Charges shall be referred to summary courts-martial in accordance with R.C.M. 601.

**Discussion**

When the convening authority is the summary court-martial because the convening authority is the only commissioned officer present with the command or detachment, *see* R.C.M. 1301(a), that fact should be noted on the charge sheet.

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**Rule 1303. Right to object to trial by summary court-martial**

No person who objects thereto before arraignment may be tried by summary court-martial even if that person also refused punishment under Article 15 and demanded trial by court-martial for the same offenses.

**Discussion**

If the accused objects to trial by summary court-martial, the convening authority may dispose of the case in accordance with R.C.M. 401.

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**Rule 1304. Trial procedure**

(a) *Pretrial duties.*

(1) *Examination of file.* The summary court-martial shall carefully examine the charge sheet, allied papers, and immediately available personnel records of the accused before trial.

**Discussion**

“Personnel records” are those personnel records of the accused which are maintained locally and are immediately available. “Allied papers” in a summary court-martial include